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**STATEMENT OF ARGUMENTS
FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

Appellants submit this Statement of Argument in support of its Pre-Appeal Brief Request for Review and Notice of Appeal filed herewith.

Overview

Claims 11-15, 17, 20, 21 and 23-34 are pending in this application with claims 11 and 21 being independent.

The June 9, 2011, Final Office Action objected to the drawings based on the assertion that the dishwasher with seal connected thereto must be shown or the features cancelled from the claims. Appellants do not understand why this objection was not raised earlier in prosecution. In any event, Appellants understand that the appeal in this application stays the need to address this objection at this time. At the conclusion of the appeal, Appellants will either add a new drawing or cancel the features from the claims.

A. Claims 11 and 28-34 (§112, second paragraph)

The Office Action rejects claims 11 and 28-34 under 35 U.S.C. §112, second paragraph, as being indefinite due to the use of the term “more flexible”. Appellants disagree that the term “more flexible” is indefinite and assert that one skilled in the art of dishwasher door seals would know what is meant by one part of a door seal being more flexible than another part of a door seal. Appellants also point to several dictionary definitions as support of this position: (1) capable of being bent or flexed (American Heritage Dictionary of the English Language); (2) capable of being flexed (Merriam-Webster Online Dictionary); (3) able to bend or be bent easily without breaking (Cambridge Dictionaries Online). Appellants submit that adding “more” to any one of these definitions results in a term that one skilled in the art of dishwasher door seals would understand.

Appellants note that the Examiner states in the Office Action (page 7) that he agrees that Hechtl does not teach a sealing lip being flexible. In Appellants' opinion this statement proves that the Examiner understands the term "flexible" and gives it patentable weight.

Appellants also submit that the Office Action should not have been final because the feature of the flexible sealing lip was not added by Amendment C and, as a result, the new grounds of rejection were not necessitated by the amendments made by Amendment C.

B. Claims 11-15, 17, 20, 21, 24-26 and 28-34 (Kim in view of Jordan)

The Office Action rejected claims 11-15, 17, 20, 21, 24-26 and 28-34 under 35 U.S.C. §103(a) over Kim in view of Jordan. Appellants respectfully traverse the rejection.

Claim 11 includes the feature of a door seal having a fixing area, a sealing element, a flexible sealing strip, and a sealing lip. The sealing lip is more flexible than the fixing area and the sealing element, is attached to the sealing element, and presses against the door to create a seal with the door. The Office Action (page 5) states that the Examiner has no way of ascertaining the meaning of the "more flexible" language. As explained above, Appellants submit that one skilled in the relevant art would know what "more flexible" means. The Office Action defined sealing strip (lower part 235 of bracket 230) is not flexible (paragraph 0040). The Office Action defined sealing lip (upper part 231 of bracket 230) of Kim is not more flexible than the Office Action defined fixing area (gasket 240) of Kim. Bracket 230 is rigid and gasket 240 is flexible (paragraph 0039). Appellants submit that one skilled in the art would know that a rigid part is not more flexible than a flexible part.

Claim 21 includes the feature of a flexible sealing lip connected to and extending from the sealing element, the sealing lip being pressed against the inner surface of the

door to create a seal with the door. The Office Action defined sealing lip (upper part 231 of bracket 230) of Kim cannot be a sealing lip because it does not seal anything. Upper part 231 simply attaches bracket 230 to fixing parts 222, and there is no mention in Kim of upper part 231 acting as a seal. Upper part 231 is not pressed against the inner surface door 200 and does not create a seal with door 200. Upper part 231 is formed of a hard material and is a part of bracket 230 that mounts bracket 230 to hinge frame 220. Door liner 210 is a continuous piece that is behind bracket 230 in Fig. 2. Upper part 231 of bracket 230 does not contact door liner 210 and has no sealing effect. In addition, upper part 231 is not flexible, it is rigid (paragraph 0040). Appellants note that paragraph 42 of Kim (pointed to by the Office Action) concerns gasket 240, not upper part 231.

The Office Action (page 7) argues that the upper part (231) of bracket 230 is part of a gasket assembly and is therefore a gasket that seals. Bracket 230 is not a gasket, it is a bracket. Figure 4 and paragraphs 0039 and 0040 clearly shows that gasket 240 is a flexible part and upper part 231 of bracket is rigid. Kim defines the combination of bracket 230 and gasket 240 as a “gasket assembly” (paragraph 0039), but that does not mean that all parts of the gasket assembly create a seal. As argued above, the Office Action defined sealing lip (upper part 231 of bracket 230) of Kim does not seal anything, especially the Office Action defined door (door liner 210). Upper part 231 does not even touch door liner 210 (see Fig. 3). The Office Action also argues that all objects/materials are to one degree or another flexible (page 7). Appellants submit that one skilled in the relevant art would not consider upper part 231 flexible when the specification (paragraph 0039) specifically calls it rigid.

Claim 21 includes the feature of a flexible sealing strip. The Office Action defined sealing strip (lower part 235 of bracket 230) of Kim cannot be the claimed sealing strip because it is part of the Office Action defined sealing element (bracket 230) of Kim. The Office Action asserts that lower part 235 of bracket 230 of Kim corresponds to the claimed sealing strip and that bracket 230 of Kim corresponds to the claimed sealing element. However, claim 21 requires that the sealing strip connects the fixing

area to the sealing element. Appellants submit that the sealing strip cannot connect something to the sealing element when the sealing strip is part of the sealing element. Also, Appellants could find no mention of lower part 235 being flexible. Appellants again note that paragraph 42 of Kim (pointed to by the Office Action) concerns gasket 240, not lower part 235.

The Office Action asserts that it would have been obvious to combine connecting portion 202 of Jordan with the device of Kim. Appellants disagree. It would not have been obvious to combine the connecting portion 202 of Jordan with the device of Kim because fixing the end of gasket 240 of Kim to the edge of tub 110 would interfere with the sliding sealing design of Kim. Further, major modifications to Kim would be required to allow the door to pivot without damaging the seal if the end of gasket 240 was fixed to tub 110. Appellants submit that the necessity of such major modifications would render such a combination non-obvious.

Claims 12-15, 17, 20 and 24-26 depend from claim 21.

Claims 28-34 depend from claim 11.

Because the combination of Kim and Jordan does not teach or suggest the features of claims 11-15, 17, 20, 21, 24-26 and 28-34, rejection under 35 USC §103(a) is inappropriate.

C. Claim 23 (Kim in view of Jordan and Hahn)

The Office Action rejects claim 23 under 35 U.S.C. §103(a) over Kim in view of Jordan and Hahn. Appellants respectfully traverse the rejection.

As explained above, Kim does not teach or suggest, for example, the feature of a flexible sealing lip connected to and extending from the sealing element. Neither Jordan nor Hahn remedies the deficiencies of Kim.

Indeed, the Examiner does not allege that Jordan or Hahn teaches or suggests the

feature of a flexible sealing lip connected to and extending from the sealing element, as recited in independent claim 21, from which claim 23 depends.

Because the combination of Kim, Jordan and Hahn does not suggest the features of claim 23, rejection under 35 USC §103(a) is inappropriate.

D. Claim 27 (Kim in view of Jordan and Thompson)

The Office Action rejects claim 27 under 35 U.S.C. §103(a) over Kim in view of Jordan and Thompson. Appellants respectfully traverse the rejection.

As explained above, Kim does not teach or suggest, for example, the feature of a flexible sealing lip connected to and extending from the sealing element. Neither Jordan nor Thompson remedies the deficiencies of Kim.

Indeed, the Examiner does not allege that Jordan or Thompson teaches or suggests the feature of a flexible sealing lip connected to and extending from the sealing element, as recited in independent claim 21, from which claim 27 depends.

Because the combination of Kim, Jordan and Thompson does not suggest the features of claim 27, rejection under 35 USC §103(a) is inappropriate.

CONCLUSION

In view of the above, Appellants respectfully request allowance of claims 11-15, 17, 20, 21 and 23-34.